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C O N F I D E N T I A L SECTION 01 OF 02 DUBLIN 001367

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TAGS: [PTER](#) [ETTC](#) [EFIN](#) [KTFN](#) [EUN](#)

SUBJECT: IRELAND'S AUTHORITY TO FREEZE TERROR ASSETS

REF: SECSTATE 193684

Classified By: PEO Chief Mary Daly per reasons 1.4 (b) and (d)

11. (C)Summary. Ireland generally follows the European Union lead in the fight on terrorist financing. Currently, Ireland can automatically freeze the assets of domestic terrorist groups or transnational terrorist groups designated by the EU. In all other instances, Ireland can only freeze assets if an investigation reveals that the particular assets within Ireland are from the proceeds of crime. Pending legislation would allow the GOI to seize assets of transnational terrorists groups independent of an EU decision and also regardless of whether the assets are the proceeds of a crime or are assets that will be used in the commitment of a future crime. GOI officials state the new terrorist legislation likely will be passed by the end of 2004. End Summary.

National Authority to Freeze Terror Assets

12. (C)Under the Offenses Against the State Act, the GOI can freeze assets of domestic terrorist groups regardless of EU designation. In regards to transnational terrorist assets, Ireland can only freeze bank account assets if the group is on the EU terrorist list. However, under the Criminal Justice and Terrorist Offenses Bill of 2002 (still pending ratification), Ireland will be able to freeze the assets of any terrorist group, foreign or domestic, independently of any EU designation. Embassy government contacts from the Department of Justice and the Central Bank expect the Terrorist Offenses Bill to be passed by the end of 2004.

13. (C)In terms of criminal assets, Ireland freezes accounts on the basis of the Criminal Justice Act of 1994. The current system is that of civil forfeiture. The courts pursue ill-gotten assets, forcing suspected criminals to prove that their gains are legitimate. The individuals are innocent until proven guilty, but their assets can be held if suspected of being the proceeds of a crime.

Current Law and The Process of Freezing Assets

14. (C)The Irish Central Bank is authorized to freeze the assets of terrorist groups that have been designated by the EU, which in turn takes its lead from the UN 1373 Counter-Terrorism Committee. EU designation has immediate legal effect in Ireland and is enforced. The Central Bank uses exchange mechanisms to freeze the assets concerned. When the GOI receives information from entities other than the EU (such as the US Treasury Department) regarding terrorist groups, the Central Bank will notify financial institutions and Gardai (national police force) to conduct investigations and surveillance on suspect groups. When this is done, the Central Bank will take one of three courses of action:

--- Investigations reveal assets are not proceeds of a crime and no action is taken.

--- There is some suspicion that assets are from the proceeds of a crime; therefore, the GOI may prevent international transfer of the money (i.e., the money cannot be moved from a bank in Ireland to a bank in the UK). However, this does not prevent the money from being transferred to another bank within Ireland or simply being withdrawn from the bank altogether.

--- Investigation reveals that the assets are the proceeds of a crime and are frozen. The legal standard for this action is higher than suspending assets from international transfer, and it is also important to note that for assets to be frozen they must be from the proceeds of the crime (i.e., robbed a bank). Assets cannot be frozen on the suspicion that they will be used for the future commitment of a crime (i.e., using the money to buy the tools to rob a bank in the future).

GOI officials stressed that when assets are frozen as a result of information given by non-EU entities, the assets are frozen only because police discovered the assets are the

proceeds of a crime, not because the non-EU entity designated the group a terrorist group.

Future Law - Criminal Justice and Terrorists Offenses Bill

15. (C)When the Criminal Justice and Terrorist Offenses Bill of 2002 is passed, it will give the Minister for Justice the ability to freeze assets of terrorists groups, regardless of whether the assets are the proceeds of a crime or will be used to commit a future crime or terrorist act. The GOI will be able to freeze assets regardless of any EU designation. The legislation has been delayed for two years because it contains three distinct parts - one dealing with terrorists financing, one dealing with ratifying language for an EU terrorist directive, and one dealing with several other UN terrorist conventions. Without giving specifics, a Justice contact stated that while the terrorists assets portion of the bill has been ready for several months, issues regarding the EU directive have prevented the bill from being submitted to Parliament. However, the contact also assured Emboff that the issue was finally resolved this month, and his opinion is that the legislation will be passed before the end of the year.

Success Stories

16. (C)The GOI has frozen all assets put forward by the EU that pertain to Ireland. Ireland has also frozen assets based on information given from non-EU sources. While not being able to supply specifics, a Justice official stated that "a few" tips given by the US Department of Treasury led to either the freezing or suspension of international transfer of assets of someone who was found to have committed a crime in Ireland.

Significant Obstacles

17. (C)The Department of Justice says that it does not necessarily arrest each perpetrator, whether criminal or terrorist, but it is successful at snatching assets and eliminating opportunities. Through the Central Bank, the Irish are successful at legislating and implementing freezes on assets. Recently, the UK and other EU members have been looking at the Irish model in terms of adopting such practices.

18. (C)Current laws that tie GOI actions to EU designations offer limited penalties. The new legislation will give the Irish more authority to address terrorist financing and provide more severe penalties commensurate with terrorist crimes.

KENNY